



Administrative Policies and Procedures: 20.57

Subject:	End of Life Decisions for Children in Custody/Guardianship
Authority:	TCA §§ 32-11-102, 32-11-103, 32-11-104, 37-1-101, 37-1-103, 37-1-140, 37-1-149, 37-2-415(a)(17), 37-2-416, 37-5-106
Standards:	DCS 9-100, 9-103, 9-104

Policy Statement:

The Department of Children's Services (DCS) has no authority to consent to or make decisions regarding the end of life of a child in its care. DCS staff shall adhere to the laws governing this process, follow the procedures outlined in this policy, and support the family when these decisions must be made.

Purpose:

In the event a child/youth in the custody or guardianship of DCS is in a terminal medical state, there may be critical decisions that need to be made regarding do not resuscitate orders or removal of life support. Because DCS has no authority to consent to these measures this policy will serve as a guide to navigate that process.

Procedures:

A. End of Life Decision Making Process	<ol style="list-style-type: none">When physicians determine that a child/youth, in DCS legal custody or guardianship, is in a terminal medical state, and request a do not resuscitate order, the following actions shall take place:<ol style="list-style-type: none">The Family Service Worker (FSW) will notify the Regional Health Nurse (RHN) of the child/youth's home county.The RHN will notify DCS General Council/designee and the Director of Medical and Behavioral Health.The DCS General Council/designee will consult with the Attorney General's office as to whether an Assistant Attorney General or a local DCS Attorney will pursue the action. In any event, the Attorney General's office will continue to provide consultation to DCS as needed.The FSW shall notify the physician and hospital social worker that DCS has no authority to consent to a do not resuscitate order or removal of life support. The Juvenile Court in the county where the child/youth was committed has jurisdiction to determine if a do not resuscitate order should be imposed or whether the hospital can remove life support.
B. Do Not Resuscitate	<ol style="list-style-type: none">Cardiopulmonary resuscitation (CPR) is the common term used to refer to resuscitation. Resuscitation is a medical procedure that seeks to restore

Order	<p>cardiac and/or respiratory function to individuals who have sustained a cardiac and/or respiratory arrest. "Do not resuscitate" (DNR) is a medical order to provide no resuscitation to individuals for whom resuscitation is judged to be of no medical benefit. CPR is futile when it offers the patient no clinical benefit or desirable outcome. CPR might also seem to lack benefit when the child/youth's quality of life is so poor that no meaningful survival is expected even if CPR were successful at restoring circulatory stability. A do not resuscitate order only refers to CPR. Other treatments are still available and can be used including intensive care, antibiotic therapy, hydration, nutritional support, comfort, care, and pain management.</p> <ol style="list-style-type: none"> 2. DNR orders can be written for a child/youth who is a patient in a hospital or being cared for in a home. However, the order issued for child/youth who is in a hospital will not apply at home. A specific home DNR order will have to be written. If someone has a DNR order and family members show it to emergency personnel, they will not try to resuscitate or transport child/youth to a hospital emergency room for CPR. 3. A DNR order should be reassessed as part of the ongoing evaluation of the child/youth's medical condition. A DNR order should be affirmed, modified, or revoked only after a discussion between the primary physician and the parent/guardian, Guardian ad Litem, and/or other interested parties and ratification by the court.
C. Child/Youth in Custody Prior to Adjudication	<p>When a child/youth is in DCS custody but there has been no adjudication (and therefore no basis for a court to be involved with a determination regarding extraordinary medical care), DCS legal staff will make every possible effort to have an adjudication expedited to determine whether the Juvenile Court has jurisdiction to enter such dispositional order regarding the child/youth.</p>
D. Child/Youth in Custody After Adjudication	<p>When a child/youth is in DCS custody after adjudication of dependency/neglect, delinquency or unruliness, DCS staff shall take the following actions:</p> <ol style="list-style-type: none"> 1. DCS legal staff shall notify parent/guardian or next of kin, if they can be located through diligent efforts, that the Juvenile Court has jurisdiction to determine if a do not resuscitate order should be imposed or whether the hospital can remove life support. 2. DCS legal staff shall petition the Juvenile Court for a "determination of extraordinary medical care" and will schedule an expedited hearing. 3. DCS legal staff must serve the parent/guardian with a copy of the petition, if they can be located through diligent efforts. 4. DCS legal staff must determine whether the child's parent/guardian or next of kin has an attorney. If not, legal must ask the Court to appoint an attorney for them. 5. DCS legal staff must confirm the child/youth has a Guardian ad Litem. If not, legal must immediately ask the Court that one be appointed to speak to the court regarding the determination of extraordinary medical care. 6. As necessary, DCS legal staff will make available to the Court any information about the child, his/her condition, history, family resources, and

	<p>resource parent information. Specifically if the child expressed an opinion about his/her desire to have or be spared extraordinary medical care and when, where, and how the child made those wishes known.</p> <ol style="list-style-type: none"> 7. DCS legal staff will assist the Court by identifying and contacting the attending physician and any other medical expert desired by the Court to provide information about the child/youth's medical condition and prognosis. 8. DCS legal staff must ensure that the child/youth's resource parents receive notice of any court hearings concerning end of life decisions. Although resource parents cannot make the ultimate decision, they will have valuable information to assist the Court in reaching its decision. 9. DCS legal staff will consult with the RHN as necessary throughout the proceedings to stay appraised of the child/youth's current medical status and prognosis. 10. DCS legal staff must ensure that a court reporter or tape recorder is present at any hearing regarding a determination of extraordinary medical care and/or that any order produced as a result of such hearing is sufficiently detailed to identify all information provided to the court, including but not limited to any and all witnesses and the testimony they provided.
E. Child/Youth in Full Guardianship of the Department of Children's Services	<p>When parental rights have been terminated and a child/youth is in full DCS guardianship, DCS legal staff must petition the Juvenile Court for an expedited hearing regarding a "determination of extraordinary medical care" and must take the actions listed in the preceding section #5 through #10.</p>
F. Documentation	<p>The court decision will be recorded, by the Family Service Worker, in TNKids case recordings. The Court's order on the petition for determination of extraordinary medical care will be included in the child/youth's case file and legal file.</p>
G. Key Definitions	<ol style="list-style-type: none"> 1. Extraordinary Medical Care <p>Medical care that has such profound consequences that it does not fall within the scope of Tenn. Code Ann. §37-1-140, which provides that it is the duty of the legal custodian to determine the nature of the care and treatment of the child, including ordinary medical care, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian. Extraordinary medical care may include but is not limited to do no resuscitate orders or removal of life support.</p> 2. Life Support <p>Life support, in the medical field, refers to a set of therapies for preserving a patient's life when essential body systems are not functioning sufficiently to sustain life unaided. Life support therapies utilize some combination of several techniques including feeding tubes, intravenous drips, total parenteral nutrition, mechanical respiration, heart/lung bypass, defibrillation, urinary catheterization, and dialysis.</p> 3. Termination of Life Support

	Termination of life support means removal or stopping any medical procedure or intervention mentioned above, which only serves to postpone the moment of death or maintain the child/youth in a state of permanent unconsciousness. The decision to terminate life support must be based on a full appreciation of the underlying medical illness and the prognosis and expectation for meaningful recovery.
Forms:	<i>None</i>
Collateral Documents:	Do Not Resuscitate Order (DNR), If Applicable